

Applicant: C Johnson Development LLC

Agent: Curtis Johnson

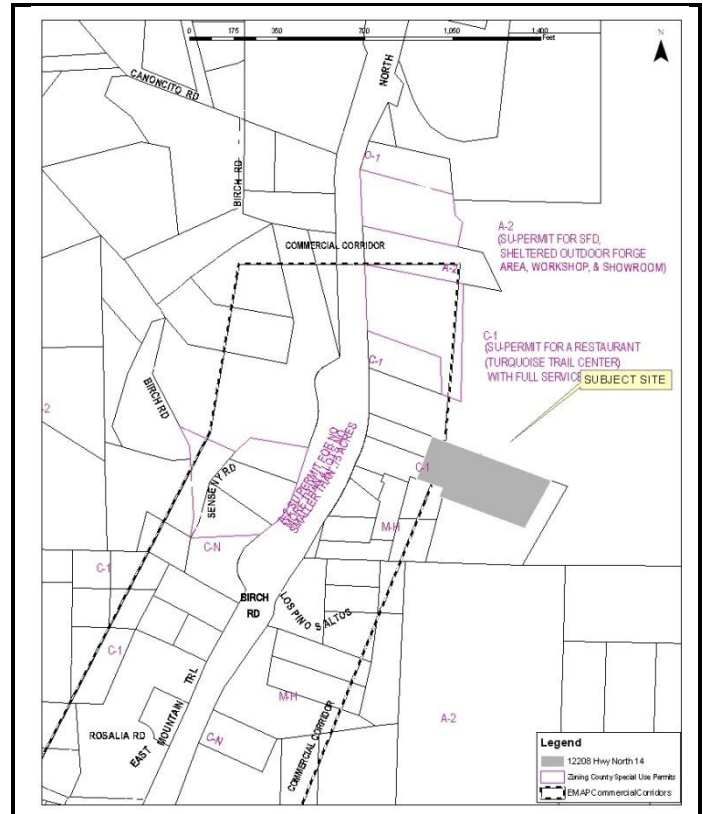
Location: 12208 North Highway 14

Property Size: Approximately 2.44 acres

Existing Zone: C-1

Proposed Request: Special Use Permit for Specific Use for Auto Storage and Salvage Yard & a Mobile Home

Recommendation: Denial



Summary: The applicant is requesting a Special Use Permit to allow the storage of inoperative vehicles. A tire and towing service is intended to operate on this site.

Staff Planner: Mari Simbaña, Program Planner

Attachments:

1. Application
2. Land Use and Zoning Map
3. Letter from the Neighbors
4. Site Plan (Commissioners Only)

Bernalillo County Departments and other interested agencies reviewed this application from Jan. 26, 2009 to Feb. 8, 2010.

Agency comments were used verbatim in preparation of this report, and begin on page 13.

AGENDA ITEM NO.: 9
County Planning Commission
March 3, 2010

CSU-20100006 Curtis Johnson, agent for C Johnson Development Co. LLC, requests approval of a Special Use Permit for Specific Use for Auto Storage and Salvage Yard & a Mobile Home on Tract C14A, LD-94-10, located at 12208 North Highway 14, on the east side of North Highway 14 approximately 600 feet south of the Turquoise Trail Center, zoned C-1, and containing approximately 2.44 acres. (F-30)

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding Zoning & Land Uses

Site	Zoning	Land Use
	C-1	Vehicle Storage
North	A-2	City of Albuquerque Open Space John A. Milne/Gutierrez Canyon
South	M-H	Residential
East	A-2	City of Albuquerque Open Space John A. Milne/Gutierrez Canyon
West	Right-of-Way	NM Highway 14

BACKGROUND:

The Request

The purpose of the request is to enable a business operator to store inoperative automobiles, trucks, and trailers on this approximately 2.44 acre lot. It is set back about 250feet from Highway 14. Access to the highway is via a 15foot-wide easement running along the north side of the property. The site plan shows a mobile home, a storage building, a metal building, and a parking area. Although landscaping is depicted, a Landscape Plan is not included. There are no other details concerning the activity to occur on site other than the application requesting the allowance for storage of inoperative vehicles and stating that the intended user is Dean's Tire and Towing Service.

History

In May 1979, a Special Use Permit for Vehicle Storage (of inoperative vehicles) on 0.5 acre (approx.) of the easterly portion of was granted by the Board of County Commissioners for one year (CSU-79-6). A seven-year extension was granted by the BCC in September 1980 (CSU-80-37). In May 2007, the owner was sent a notice stating that these permits had expired.

Request Justification

The applicant believes that the intended uses are needed by the growing community citing that, "The last accident on Hwy 14 resulted in the temporary storage of the vehicles at Deans involved and is a needed service to our community."

Surrounding Land Use and Zoning

The site is due east of North Highway 14. Both lots immediately west of the site are zoned C-1, one of these containing a restaurant. There is a lot to the south zoned M-H and is occupied residential. The lot bordering the subject site to the south and east is zoned A-2 and vacant. The portion of this that borders the subject site to the east about 70 feet wide. Adjacent to that is the City of Albuquerque John A. Milne/Gutierrez Canyon Open Space. Immediately north of the subject site is A-2 zoned property and is the entrance to the City of Albuquerque John A. Milne/Gutierrez Canyon Open Space. North of that is a U.S. Post Office and the Turquoise Trail Center containing a café, restaurant, and some smaller retail shops.

APPLICABLE PLANS AND POLICIES:

Albuquerque/Bernalillo County Comprehensive Plan

Policy 3 The stated Goal of the Rural Area is "to maintain the separate identity of Rural Areas as alternatives to urbanization by guiding development compatible with their open character, natural resources, and traditional settlement patterns." The following includes applicable policies:

Policy 3.a. of the Rural Area Goal states that “higher density development may occur at appropriate locations. Rural Area density patterns shall be more specifically defined through lower rank planning. Each higher density area is to be controlled by site development plan and is to be located well away from other such higher density areas.”

Policy 3.b states that “Development in Rural Areas shall be compatible with natural resource capacities, including water availability and capacity, community and regional goals and shall include trail corridors where appropriate.”

Policy 3.f states that “Development shall be carefully controlled in the East Mountain Area to prevent environmental deterioration, and to be compatible with the resource base and natural recreational and scenic assets.”

Policy 3.g states that “the following shall guide industrial and commercial development in the Rural Areas.”

- Small-scale, local industries, which employ few people and may sell products on the same premises, are the most desirable industrial use.
- Neighborhood and/or community-scale rather than regional scale commercial centers are appropriate for rural areas. Strip commercial development should be discouraged and, instead, commercial development should be clustered at major intersections and within designated mountain and valley villages.”

Policy 6 Economic Development goal is, “to achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.”

Policy 6.a states that, “New Employment opportunities which will accommodate a wide range of occupational skills and salary levels shall be encouraged and new jobs located convenient to the areas of most need.”

Policy 6.b states that, “Development of local business enterprises as well as the recruitment of the outside firms shall be emphasized.”

Policy 6.g states that, “Concentrations of employment and Activity Centers should be promoted in an effort to balance jobs with housing and population and reduce the need to travel.”

East Mountain Area Plan Goals and Objectives

General Land Use – 1 Goal

- Protect the property rights of property owners while ensuring the health, safety, and welfare of all inhabitants.

Visual Resources – 4

Goal

- Maintain and improve the existing visual quality of the East Mountain Area.

Objective

- Recognize the natural and visual environment, particularly features unique to the East Mountain Area as a significant determination in development decisions.

Economic And Commercial Development – 9

Goal

- Achieve steady and diversified economic development balanced with other important social, cultural, and environmental goals.

Objectives

- Promote sound economic development that includes small-scale, local businesses.
- Provide new employment opportunities for area residents which will accommodate a wide range of occupational skills and salary levels.
- Promote tourism with careful attention to the potential for impacts of tourism on the East Mountain Area residents, rural character, and environment.

Policies

- 9.1 Commercial development shall occur in commercial corridors and nodes identified through an economic development study, sector plan, or master plan approved by Bernalillo County.
- 9.2 Prohibit new Special Use Permits for commercial and manufacturing that would be equivalent to M-2 zoning.
- 9.3 New commercial development shall be of an appropriate scale to meet the needs of the area residents and not degrade the environment.
- 9.4 Encourage small-scale business to develop with the potential for providing local employment.

Possible Techniques

- Establish commercial corridors and nodes to allow for the location of neighborhood-scale businesses that generate jobs and provide needed goods and services to EM residents while maintaining rural character.
- Focus light industrial and commercial development in selected areas with adequate utilities and transportation access and set apart from any existing or future residential neighborhoods or other incompatible land uses.

- Reserved portions of the community strictly for commercial activity to accommodate a variety of wholesale, retail, service and offices uses where the highest traffic volumes and greatest utility demands can be served and more extensive signage and outdoor display of materials will be expected and permitted.

p. 119

Rural Character

The most important issue identified by respondents on the 2003 questionnaire was the retention of rural character, confirmed by responses to other Survey questions. The vision of the East Mountain Area residents is to maintain this rural character. This is the focus of discussion in the Community Vision section which can be found in Appendix G. Rural character is defined by natural landscape, open spaces, undisturbed ecosystems, quietness, views of the landscape and the sky, limited traffic, large lots, privacy, and small-scale local businesses.

Bernalillo County Zoning Ordinance

Resolution 116-86 defines criteria for evaluating a Zone Map changes and Special Use Permit applications.

The following policies for deciding zone map changes and Special Use Permit applications pursuant to the adopted Bernalillo County Zoning Ordinance.

- A. A proposed land use change must be found to be consistent with the health, safety and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan of other Master Plans and amendments thereto including privately developed area plans which have been adopted by the Board of County Commissioners.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
 - 1. An error in the original zone map.
 - 2. Changed neighborhood conditions, which justifies a change in land use or

3. That a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the Board of County Commissioners.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- H. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- I. A zone change request, which would give a zone different from the surrounding zoning to a strip of land along a street, is generally called a "strip zoning." Such a change of zone may be approved only when:
 1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

Section 18. Special Use Permit Regulations.

- A. By Special Use Permit after receipt of a recommendation from the Bernalillo County Planning Commission, the Board of County Commissioners may authorize the location of uses in any zone in which they are not permitted by other sections of this ordinance; the Bernalillo County Commission may likewise authorize the increase in height of buildings beyond the limits set by previous sections of this ordinance. With such permits, the Bernalillo County Commission may impose such conditions and limitations as it deems necessary:
 1. To ensure that the degree of compatibility of property uses which this section is intended to promote and preserve shall be maintained with respect to the special use on the particular

site and consideration of existing and potential uses of property within the zone and the general area in which the use is proposed to be located;

2. To ensure that the proper performance standards and conditions are, whenever necessary, imposed upon uses which are, or which reasonably may be expected to become, obnoxious, dangerous, offensive or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;
3. To preserve the utility, integrity and character of the zone in which the use will be located, without adversely affecting adjacent zones; and
4. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

B.32.a

(Office/Commercial) In certain situations based on unique conditions the owner may apply for any of the specific uses set forth in Sections 12, 13, 14, or 15 of this Ordinance. The special use for a specific use (office/commercial) may be granted if the owner/applicant proves by clear and convincing evidence that: (1) unique conditions exist that justify the request and (2) there is substantial support from neighborhood residents (or owners of property) within 200 feet of the site for the proposed special use.

Section 19: Landscaping and Buffer Landscaping Regulations:

Where a nonresidential zone which is hereafter developed for a business purpose abuts a residentially zoned property, special buffer landscaping is required to minimize noise, lighting and sight impact of the nonresidential activities in the residential area.

- I- Landscaping and buffer landscaping will be required in all zones for office, commercial, industrial, and multifamily residential uses; R-1, A-1, A-2 and M-H residential uses are exempt.
 1. Sites of one acre or less:
 - a. There shall be a landscaped setback along all streets of no less than ten feet.
 - b. There shall be a landscaped buffer of six feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
 - c. Fifteen percent of all paved areas shall be landscaped. The landscaped setback shall contribute toward this requirement.
 2. Sites one acre and up to five acres. There shall be a landscaped setback along all streets of no less than 15 feet. All other requirements same as 1.b. and 1.c. above.
- I- In a nonresidential zone, a solid wall or a solid fence at least six feet high shall be erected on sides abutting a single family residential use, except for those sides abutting public right-of-way.

- E. Landscaping which dies shall be replaced by the property owner who is obligated to provide it as expeditiously as possible, but in no case longer than 30 days after notification. If the 30-day period falls at a time of the year when planting of landscaping is inadvisable, a waiver may be granted by the Zoning Administrator to allow planting at the earliest possible time. The waiver and date of the planting deadline shall be recorded by the County Zoning Office.
- G. Parking spaces within a parking lot shall be no more than 50 feet from a tree.
- H. Nonconforming Landscaping. Premises which, when they were developed, were not required to be developed in accordance with the Landscaping and Buffer Landscaping Regulations Section of this ordinance, shall be made to conform with this regulation within two years due to the amendment of the map or text of this ordinance.

ANALYSIS:

Surrounding Land Use and Zoning

The site is due east of North Highway 14. Both lots immediately west of the site are zoned C-1, one of these containing a restaurant. The surrounding commercial uses are small in scale and serve the needs for goods and services of the community. It appears that there are not other M-1 type uses in the area. There is a lot to the south zoned M-H and is occupied residential. The lot bordering the subject site to the south and east is zoned A-2 and vacant. The portion of this that borders the subject site to the east about 70 feet wide. Adjacent to that is the City of Albuquerque John A. Milne/Gutierrez Canyon Open Space.

Plans

Albuquerque/Bernalillo County Comprehensive Plan Policy 3 states that the goal of the Rural Area is "to maintain the separate identity of Rural Areas as alternatives to urbanization by guiding development compatible with their open character, natural resources, and traditional settlement patterns."

The East Mountain Area Plan does not support commercial uses that would require M-1 zoning.

Zoning Ordinance

As a permissive use, automobiles, trucks and trailers parked outdoor for storage in the C-2, M-1, and M-2 zoning categories. A salvage yards are allowed in M-1 and M-2 zoned properties.

Agency Comments

Public Works staff is requesting a Conceptual Grading and Drainage Plan, a Traffic Scoping Report, and comments that the Site Plan does not show entrance gates to property. Environmental Health staff states that an application has been partially submitted to modify/upgrade wastewater system to meet requirements of Bernalillo County Wastewater Ordinance 2006-1 and is currently under review but that a permit has not been issued. The City Open Space Division staff questions the appropriateness of this use to the specific area its consistency with the health, safety, and general welfare of the residents of Bernalillo County. An "inoperable vehicle lot" would negatively impact local residents' impression and enjoyment

of the newly acquired land and highly used trailhead. Staff believes this requested use should require visual screening or a structure to screen their operation from visitors using the adjacent Open Space land. Furthermore, there is a concern for potential ground water contamination from leaking vehicle fluids in proximity to adjacent drainage and catchment area. County Open Space staff agrees with the need for visual screening. Fire Department staff is requiring that commercial vehicles have a 10-foot setback from property lines.

Analysis Summary

Zoning	
Resolution 116-86	This request use is not more advantageous as it may negatively impact the health, safety, and welfare of the community and may be a visual detriment. The application does not meet Section 18.B.32 of the Zoning Ordinance there is no substantial neighborhood support and no justification for unique conditions
Plans	
Comprehensive Plan	This request is not consistent with Policy 3 because it does not maintain the rural identity of the area and is not compatible with the East Mountain Area Plan (Policy 3.a.)
East Mountain Area Plan	The Plan does not support commercial uses that would require M-1 or M-2 zoning. Policy 9.3 states that" New commercial development shall be of an appropriate scale to meet the needs of the area residents and not degrade the environment.
Other Requirements	
Environmental Health	Existing wastewater system is not permitted and condition is unknown.
Public Works	There should be 2-30-foot gates shown on site plan. Traffic Scoping Report must be submitted prior to approval. A conceptual grading and drainage plan prepared by an engineer licensed in the State of New Mexico must be submitted to, and approved by, Bernalillo County Public Works prior to final approval of this application.
Fire Department	The parking of commercial vehicles shall be a minimum of 10 feet from the property line.
Open Space	Screening of inoperable vehicles should be required if the Special Use Permit is approved

City Open Space	Storing inoperable vehicles should require visual screening or a structure. Due east of the applicant's property is a major drainage and water catchment area. The Open Space Division has concerns for potential ground water contamination from leaking vehicle fluids in proximity to this drainage.
-----------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Conclusion

The application is an effort by the owner to meet Bernalillo County regulations and proposes to reinstate a prior use. Staff does not view it as a reestablishment of the original Special Use Permit, as this new application is much more intense than the former allowance which expired in 1987 and was allowed on 0.5 of an acre. The majority of the property abutting the subject site is zoned A-2. One of these properties is the City of Albuquerque John A. Milne/Gutierrez Canyon Open Space. A salvage yard would not be compatible with this public open space use. No forethought has been given to buffering and screening of these uses to the public, especially to the open space. Another concern is the potential vehicle fluid leakage into the drainage area to the east of the site. No intent has been shown on the part of the applicant through a Grading and Drainage or Mitigation plan to address possible contamination. Additionally, because the site plan does not provide parking detail, it is unclear whether commercial vehicle parking will meet Fire Code requirements. The site plan is not accurate as it does not show all existing elements, including access gates to the site or a landscape plan. Furthermore, the Response to Resolution 116-86 mentions reasons for instituting the use but does not justify the need.

The application does not include letters indicating substantial neighborhood support neither does it provide a justification for unique conditions. One letter of public comment has been submitted on behalf of the Turquoise Trail Preservation Trust, requesting further, "information or background for the request." and questioning the need for such a use. Staff recommends denial of the request.

RECOMMENDATION:

Staff recommends Denial of the request.

Mari Simbaña
Program Planner

FINDINGS

1. This is a request for a Special Use Permit for Specific Use for Auto Storage and Salvage Yard & a Mobile Home on Tract C14A, LD-94-10, located at 12208 North Highway 14, on the east side of North Highway 14 approximately 600 feet south of the Turquoise Trail Center, zoned C-1, and containing approximately 2.44 acres.
2. The property is within the Rural Area as designated by the Albuquerque/Bernalillo County Comprehensive Plan.
3. The applicant has failed to meet Section 18.B.32 of the Zoning Ordinance in that there is no substantial neighborhood support and no justification for unique conditions.
4. This request is not consistent with Resolution 116-86 in that the applicant has failed to demonstrate that the existing zoning is inappropriate.
5. This request is in conflict with Resolution 116-86, in that the proposed land use category may be detrimental to the public interest, health, safety, and general welfare of the area.

BERNALILLO COUNTY DEPARTMENT COMMENTS

Zoning Administrator:

No comment received

Environmental Health:

2/5/2010

Water services provided by domestic well, EHW 20090008.

Existing wastewater system is not permitted and condition is unknown, thus does not meet current BCEH requirements. Application has been partially submitted to modify/upgrade wastewater system to meet requirements of Bernalillo County Wastewater Ordinance 2006-1 and is currently under review. A permit has not been issued.

Zoning Department Manager:

2/2/2010

Based on the above comments there is no adverse comments at this time.

No zoning violations noted on property

Building Department Manager:

2/11/2010

No adverse comments.

Public Works:

DRAN: 2/4/2010

This property is subject to Bernalillo County Code Chapter 38, "Floods". The site plan included with this Special Use permit application shows extensive existing development. A conceptual grading and drainage plan prepared by an engineer licensed in the State of New Mexico must be submitted to, and approved by, Bernalillo County Public Works prior to final approval of this application. The conceptual grading and drainage plan must meet minimum design criteria including existing contours and elevations and proposed contours and elevations if any.

A final grading and drainage plan will be required to be submitted within 60 days following approval of this special use request and/or prior to any development.

DRE: 2/8/2010

Site Plan does not show entrance gates to property. There should be 2-30-foot gates shown on site plan.

Traffic Scoping Report must be submitted prior to approval.

Fire Department

2/10/2010

The parking of commercial vehicles shall be a minimum of 10 feet from the property line.

Required access: Fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction.

The required width of a apparatus access road shall not be obstructed in any manner, including parking of vehicles during construction and/or occupancy.

Parks & Recreation:

2/5/2010

1. Property adjoins the John A. Milne-Gutierrez Open Space managed by the City of Albuquerque Open Space Division.
2. Bernalillo County Open Space supports the City of Albuquerque Open Space Division's request for screening of inoperable vehicles if the Special Use Permit is approved.

Sheriff's:

No comment received

COMMENTS FROM OTHER AGENCIES

MRGCOG:

2/2/10

For information purposes, North Highway 14 has a functional classification of Rural Major Collector as per the Current Roadway Functional Classification System map.

AMAFCA:

2/3/10

No comment.

City Planning Department:

No comment received

Transportation Division

No comment received

Municipal Development:

No comment received

City Public Works:

Transp. Planning: No comment received

Transp. Development: 2/1/10

No adverse comments.(Salgado)

City Transit:

2/2/10

No comment.

ABCWUA Utility Development Section

No comment received

City Environmental Health:
No comment received

City Open Space:

2/5/10

The Open Space Division has several concerns regarding this Special-Use request adjacent to publicly owned property:

- Is this type of land use and zoning appropriate to the specific area?

- Is this use consistent with the health, safety, and general welfare of the residents of Bernalillo County?

- Thirty-one years ago a Special-Use Permit was granted to allow this use at this location.

The adjacent property is presently a publicly owned Open Space parcel and trailhead offered for general recreation and public benefit to enjoy the natural beauty of the area. An "inoperable vehicle lot" would negatively impact local residents' impression and enjoyment of the newly acquired land and highly used trailhead.

- The Open Space Division is of the opinion that an existing tire and towing operation may be permissible but that storing inoperable vehicles should require visual screening or a structure. If the Special-Use Permit is granted, the applicant should be required to screen their operation from visitors using the adjacent Open Space land.

Due east of the applicant's property is a major drainage and water catchment area. The Open Space Division has concerns for potential ground water contamination from leaking vehicle fluids in proximity to this drainage.

NM Department of Transportation
No comment received

Albuquerque Public School:
1/4/2010
No comment received

Public Service Company of New Mexico
No comment received

NM Gas
2/4/10
No adverse comment.

Village of Tijeras:
No comment received

NEIGHBORHOOD ASSOCIATIONS:
East Mountains District 5 Coalition